IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1447 (M/B) 2001

Old No. 5250 of 1992

Dr. Haseen Ahmad,
S/o Shri Jamil Ahmad,
R/o 1/43-A 8, Lalbagh Pant Nagar,
District Nainital ……. Petitioner

Versus

1. Govind Ballabh Pant University
of Agriculture & Technology,
Pant Nagar, Distt. Nainital,
through its Registrar.
2. Govind Ballabh Pant University
of Agriculture & Technology,
Pant Nagar, Distt. Nainital,
through its Vice Chancellor.
3 Govind Ballabh Pant University
of Agriculture & Technology,
Pant Nagar, Distt. Nainital,
through its Board of Management.
4 Govind Ballabh Pant University
of Agriculture & Technology,
Pant Nagar, Distt. Nainital,
through its Chief Personnel Officer. …….. Respondents

Mr. Sharad Sharma, Advocate for the Petitioner.
Mr. Rajendra Dobhal, Counsel for G.B. Pant University.

Coram: **Hon'ble S.H. Kapadia ,C.J.**
Hon'ble M.M. Ghildiyal, J.

Date: 3rd November 2003

ORAL JUDGMENT: [Per Hon'ble S.H. Kapadia, C.J.]

1. Shri Haseen Ahmad – petitioner has filed this Writ Petition directing G.B. Pant University of Agriculture & Technology to regularize his services in the University.

2. **FACTS:**

Haseen Ahmad was appointed as Teaching Associate vide order dated 10th September 1984 in Mathematics and Statistics Department on ad hoc basis for six months or till such time as the regularly

selected Assistant Professor joins on a consolidated salary of Rs. 1,000/- per month. His services were extended from time to time up to 31st August 1989. Thereafter, they were sought to be terminated. Therefore, Haseen Ahmad filed writ petition No. 16291 of 1989 before the Allahabad High Court. That writ petition was dismissed on 22nd April 1991. The matter was carried in appeal to the Supreme Court. On 26th July 1991 the Supreme Court, Interalia, held that the petitioner would be entitled to continue as Teaching Associate in Statistics till the Project lasted. That, however, the petitioner had no right to continue beyond the life of the Project. Accordingly, the S.L.P. was disposed of by the Apex Court on 26th July 1991. On 16th August 1991, G.B. Pant University issued an order by which petitioner's service was continued as Teaching Associate, but not in Statistics. He was continued as Teaching Associate in Molecular Biology and Genetic Engineering and that too, subject to regular appointment being made. This order was challenged in the present writ petition on the ground that the impugned order dated 16th August 1991 was passed by the University in order to circumvent the judgment of the Supreme Court dated 26th July 1991. When this writ petition came for admission on 25th February 1992, the earlier Bench of the Allahabad High Court restrained the University from terminating the services of the petitioner till further orders. Consequent upon the interim orders passed by the Allahabad High Court, the petitioner has continued to work as a Teaching Associate in Statistics till today. He now seeks regularization as Assistant Professor in Statistics. He has also relied upon the recommendation of the Dean dated 28th July 2003 addressed to the Vice Chancellor of .G.B. Pant University recommending regularization of the petitioner and his appointment to the post of Assistant Professor in Statistics on the ground that he has been working as Teaching Associate in the Statistics Department right from 10th September 1984.

3. ARGUMENTS:

On behalf of the University, it has been submitted that the petitioner was appointed as a Teaching Associate in Statistics on ad hoc basis for six months or till such time as the vacancy is filled in by a regular candidate. That he was appointed on a consolidated salary of Rs. 1,000/- per months. That there was no obligation on the part of the University to absorb him in the University in future. That his ad hoc term of appointment was extended up to 31st August 1989. That he has continued to work as a Teaching Associate under interim orders passed by the Allahabad High Court. That all Teaching Associates were entitled to continue only till the Project lasted. That the post of Assistant Professor was a selection post and appointments on the said post could be made only after due process and in accordance with the Act and the Statute of the University, which provides for open selection for advertisement in national daily newspaper. That the post of Teaching Associate is not equivalent to the post of Assistant Professor. That Teaching Associates are appointed on ad hoc basis on consolidated salary through local advertisement while the posts of Assistant Professor are advertised in national daily newspaper and appointment are made by duly statutory Selection Committee after approval from the Board of Management of the University. That till today, the post has not been advertised as the matter is pending before this Court. In the circumstances, the University has submitted that regularization was not possible.

4. FINDING:

Although we find merit in the case of the University, we are of the view that the petitioner has worked as a Teaching Associate from 10th September 1984 till date. Till today, the University has not challenged in Appeal orders passed on 25th February 1992 by the Allahabad High Court. Petitioner is 47 years old. He may be age-barred if the University is now permitted to resort to Open selection. In the

Counter we do not find the date on which the life of the Project came to an end. Even the Dean has recommended the case of the petitioner for regularization on the ground that he is sincere and hard working. Till today, the University has not sought permission either from Allahabad High Court or from this Court enabling it to go for Open Selection. Therefore, although we find merit in the case of the University, namely that Teaching Associates cannot be equated to Assistant Professors, as an exception and without laying down any precedent, we are directing the University to regularize the services of the petitioner as Assistant Professor in Statistics with effect from 1st November 2003. The petitioner will not be entitled to any monetary actual benefit for the period 10th September 1984 up to 31st October 2003. This is because we are regularizing his services with effect from 1st November 2003.

5. Subject to above, writ petition is disposed of. No order as to costs.

(M.M. Ghildiyal, J.) **(S.H.Kapadia, C.J.)**

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